

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIFFANY ROBINSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08 C 185
)	
H&R BLOCK ENTERPRISES, INC. and)	Honorable Judge Guzman
HSBC BANK USA, NA,)	Honorable Magistrate Judge Ashman
)	
Defendants.)	

**DEFENDANT H&R BLOCK ENTERPRISES, INC.’S
MOTION TO DISMISS**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendant H&R Block, Enterprises, Inc. (“H&R Block”), by and through its counsel, hereby moves this Court for an order dismissing Counts I, III, IV, and VI¹ of Plaintiff’s Amended Complaint (*i.e.*, all claims asserted against H&R Block) for failure to state a claim upon which relief can be granted. Plaintiff’s suit arises out of her accusation that an unnamed “imposter,” who Plaintiff suggests may have been employed by H&R Block, stole Plaintiff’s identity and wrongfully used it to obtain an Emerald MasterCard and an attendant \$600 loan from Defendant HSBC Bank USA, NA for prepaid credit in Plaintiff’s name. Plaintiff’s Amended Complaint concedes that, upon learning of Plaintiff’s claim, H&R Block took prompt action to address the situation, told Plaintiff that the loan would be forgiven and offered to provide her with credit security protection and to prepare her taxes free of charge. Plaintiff also concedes that the loan was, in fact, forgiven, and the Emerald MasterCard was closed. Yet, Plaintiff has filed the instant

¹ Plaintiff’s claim for “invasion of privacy,” the fifth count in her Amended Complaint, is numbered in that pleading as “Count VI.” There is no Count V in the Amended Complaint. For the sake of clarity, this motion adopts the numbering used in Plaintiff’s Amended Complaint.

lawsuit seeking to impose liability upon H&R Block under a variety of legal theories, ranging from claims asserted under the Equal Credit Opportunity Act (“ECOA”) and Fair Credit Reporting Act (“FCRA”) to state statutory and common law causes of action. None of Plaintiff’s efforts to state a claim against H&R Block, however, is sustainable. Rather, Plaintiff’s counts against H&R Block fail as a matter of law for multiple reasons, including that: (1) The provisions of the ECOA relied upon by Plaintiff’s Amended Complaint apply only to “creditors,” not to H&R Block; (2) H&R Block is not subject to vicarious liability for the alleged intentional misconduct of an “imposter” identity thief; and (3) Plaintiff has not stated any viable claim under Illinois law.

Accordingly, and for the reasons set forth herein and in the accompanying memorandum, all claims asserted by Plaintiff against H&R Block should be dismissed for failure to state a claim. In further support of this motion, H&R Block refers the Court to its Memorandum in Support which is being filed contemporaneously with this Motion.

WHEREFORE, H&R Block prays that the Court dismiss Counts I, III, IV, and VI of Plaintiff’s Amended Complaint (*i.e.*, all claims asserted against H&R Block), award H&R Block its costs incurred in the defense of these claims, and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

H&R BLOCK ENTERPRISES, INC.

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* Ms. Gilman and Mr. Kurt have been
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And

By: /s/ Keli M. Videtto

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a copy of the foregoing Motion to Dismiss was filed and served electronically with the Clerk of the Court of Illinois, Northern District, Eastern Division, 219 South Dearborn Street, Chicago, Illinois and the same being accomplished pursuant to CM/ECF this 12th day of May, 2008, on:

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